HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT APPEAL No.1285 of 2006

Between:

The Chairman and Managing Director,
AP GENCO, Vidyut Soudha, Hyderabad.

... Appellant

AND

The A.P.Power Generating Employees Union,
Rep by its General Secretary, Ibrahimpatnam,
Krishna District
and three others.

... Respondents

; JUDGMENT :

Counsel for the appellant : Shri G.Vidyasagar

Counsel for respondent No.1 : Shri G.V.Shivaji

Counsel for respondent Nos.2 &3 : Government Pleader for Labour

Counsel for respondent No.4 : Shri A.K.Jayaprakash Rao

Dated: 20th July, 2007

Per C.V.NAGARJUNA REDDY, J.

This appeal is directed against order dated 14.2.2006 of the learned Single Judge, whereby she disposed of the writ petition filed by respondent No.1 by directing the appellant to deposit a sum of Rs.2,00,000/- to meet the expenses for conducting elections to ascertain majority union in terms of order dated 12.2.1999 passed by this Court in Writ Petition No.36486 of 1998.

The facts relevant for the purpose of deciding this appeal are stated hereunder:

The Additional Commissioner of Labour-cum-Chief Returning Officer issued notice dated 17.12.1998 for conduct of secret ballot to identify the majority union in the erstwhile Andhra Pradesh State Electricity Board (APSEB). Questioning the said notice, one of the unions, namely, Andhra Pradesh State Electricity Board Employees Union (Registered No.327) filed Writ Petition No.36486 of 1998. By an order dated 30th December, 1998, this Court stayed the election process.

During the pendency of the abovementioned writ petition, Andhra Pradesh Electricity Reform Act 1998 (for short 'the Act') came into force with effect from 1.2.1999. Under that Act, APSEB was divided into two separate companies, namely, A.P. TRANSCO and A.P. GENCO. Keeping in view this development, learned Single Judge, vide his order dated 12.2.1999 disposed of Writ Petition No.36486 of 1998 with a direction to the two successor companies to deposit a sum of Rs.2,00,000/- as requisitioned by the Additional Commissioner of Labour cum Chief Returning Officer to meet the

expenditure of secret ballot and the letter was directed to hold election by secret ballot.

Writ Appeal No.237 of 2000 filed against the order of the learned Single Judge was dismissed on 14.7.2005 because during the pendency thereof, four distributions companies were formed under the second transfer scheme framed by the Government of Andhra Pradesh vide G.O.Ms.No.35, Energy (Power-III), dated 31.3.2003 and in accordance with the transfer scheme, options were called from the employees and they were allotted among the A.P. GENCO and A.P. TRANSCO and the four distribution companies in accordance with the options exercised by them.

During the pendency of Writ Appeal No.237 of 2000, respondent No.1 filed Writ Petition No.18005 of 2002 for holding election to identify majority union in terms of order dated 12.2.1999 passed in Writ Petition No.36486 of 1998. The learned Single Judge disposed of the writ petition with the directions, to which reference has been made hereinabove.

On 8.12.2006, Sri G.Vidyasagar took time to ascertain whether the appellant has deposited Rs.2,00,000/- in terms of the direction given by the learned Single Judge. On the next date, i.e., 26.12.2006, the learned counsel informed the Court that the appellant has deposited the required amount. Thereupon, operation of the order of the learned Single Judge was stayed.

We have heard Sri G.Vidyasagar, learned counsel for the appellant and Sri G.V.Shivaji, learned counsel for respondent No.1, Government Pleader for Labour for respondent Nos.2 and 3 and Sri A.K.Jayaprakash Rao, for respondent No.4 and scrutinised the record.

A reading of the order under challenge shows that the learned Single Judge disposed of the writ petition solely on the basis of the

earlier order dated 12.2.1999 passed in Writ Petition No.36486 of 1998. By the time of disposal of the second writ petition, a period of more than eight years had elapsed and during this interregnum, a number of developments including bifurcation of APSEB and formation of four distribution companies have taken place. These developments were not kept in mind by the learned Single Judge while directing the appellant to deposit Rs.2,00,000/- for the purpose of holding election. Sri A.K. Jayaprakash Rao fairly stated that as a sequel to implementation of the provisions of the Act, the APSEB was divided into two separate companies and subsequently, four distribution companies were formed.

In our opinion, with the formation of the four distribution companies and allotment of the employees working in the A.P.GENCO and A.P.TRANSCO among all the six companies, an exercise is required to be done to identify the majority union in each of these six companies. Therefore, we do not see any valid reason or justification to confine holding of process to identify majority union only to the two companies namely, A.P.GENCO and A.P.TRANSCO. Equally, we see no justification to subject the appellant and A.P.TRANSCO to bear the responsibility of meeting the expenses in conducting the process of secret ballot to identify the majority union. Since six companies have come into existence and been functioning, the competent authority i.e., respondent No.2 is required to take steps to conduct the process for each of the six companies to identify the majority unions.

Hence, we deem it proper to modify the order of the learned Single Judge and dispose of the writ appeal in the following terms:

i) Respondent No.2 shall initiate steps to conduct the process of conducting secret ballot to identify the majority union for the purpose of recognition in each of the six

companies, namely, A.P.GENCO, A.P. TRANSCO and the four distribution companies constituted under the Act and functioning in the State of Andhra Pradesh.

ii) As a first step, respondent No.2 shall estimate the expenditure required for holding such process and apportion the same among these six companies. Within six (6) weeks, he shall intimate respective shares of expenditure to all the six companies and call upon them to deposit the amounts within the next two (2) weeks.

iii) On receipt of the money from all the companies, respondent No.2 shall complete the election process within six (6) weeks.

iv) Respondent No.2 shall return to the appellant the sum of Rs.2,00,000/- deposited by it in compliance of the order of this Court in Writ Petition no.18005 of 2002.

The writ appeal is accordingly disposed of.

As a sequel to disposal of the writ appeal in the manner indicated above, WAMP. No.2706 of 2006 filed by the appellant for interim relief and W.A.V.M.P.No.1141 of 2007 filed by respondent No.1 for vacating the interim order are disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

G.S.SINGHVI, CJ

Date: 20-07-2007.
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